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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,765	12/18/2000	Martti Talja	2880/323	1794

26646 7590 08/12/2003

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

ISABELLA, DAVID J

ART UNIT	PAPER NUMBER
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3738

12

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary

Application No.

09/737,765

Applicant(s)

TALJA ET AL.

Examiner

DAVID J ISABELLA

Art Unit

3738

All participants (applicant, applicant's representative, PTO personnel):

(1) DAVID J ISABELLA.

(3) _____.

(2) ZEBA ALI.

(4) _____.

Date of Interview: 30 July 2003.

Type: a) ☐ Telephonic b) ☐ Video Conference

c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 1-5.

Identification of prior art discussed: Pinchuk and Silver.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See attached draft. Applicant argued that the reference fails to disclose a biodegradable material that is internally reinforced with biodegradable reinforcing elements.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

David J. Isabella
Primary Examiner

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

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IN THE CLAIMS

1. (Currently Amended) A surgical implant comprising:
a biodegradable material having a helical configuration [wherein said material is] and internally reinforced with biodegradable reinforcing elements in a longitudinal direction of the material [and said implant has a helical configuration].
2. (Currently Amended) The surgical implant of claim 1, wherein said biodegradable reinforcing elements are selected from the group consisting of microfibrils and fibrils [internally reinforce the material].
3. (Currently Amended) The surgical implant of claim 1, wherein said biodegradable reinforcing elements are selected from the group consisting of fibers, wires, braids, and ribbons [internally reinforce the material].
4. (Previously Amended) The surgical implant of claim 1, wherein the implant has a screw-threaded configuration.
5. (Currently Amended) The surgical implant of claim 1, further comprising a second biodegradable material having a second helical configuration [wherein said second material is] and internally reinforced with second biodegradable reinforcing elements in a longitudinal direction [and said implant has a second helical configuration] of the second material, wherein the helical configuration and the second helical configuration are at least partially nested within each other.

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**AMENDMENT AFTER FINAL
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: M. TALJA *et al.*
Serial No: 09/737,765
Filed: December 18, 2000
For: BIODEGRADABLE SURGICAL IMPLANTS AND
DEVICES
Group Art Unit: 3738
Examiner: D. Isabella
Docket No.: 2880/323
Customer No.: 23838

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Alexandria, VA 22313-1450

AMENDMENT AND RESPONSE UNDER 37 C.F.R. §1.116

SIR:

In response to the Office Action of April 2, 2003, Applicants hereby petition for a one-month extension of time extending the period of response up to and including August 2, 2003. Applicants respectfully request entry of the foregoing amendments and request reconsideration of the present application.

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REMARKS

Claims 1-5 are pending in the present application. Claims 1, 2, 3, and 5 have been amended. Applicants submit that the present amendments only re-phrase existing elements recited in the claims and raise no new issues, require no additional search, or introduce any new matter. Applicants therefore submit that such amendments are proper at this stage of prosecution and respectfully request entry thereof.

Claims 1, 3, 4, and 5 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 5,019,090 to Pinchuk ("Pinchuk"). Claim 2 stands rejected under 35 U.S.C. §103(a) as being allegedly rendered obvious by Pinchuk in view of U.S. Patent No. 4,937,323 to Silver *et al.* ("Silver"). Applicants respectfully traverse these rejections.

Claims 1, 3, 4, and 5 Are Not Anticipated by Pinchuk

According to the Office Action, Pinchuk discloses a surgical implant comprising a biodegradable material wherein the material is reinforced in a longitudinal direction and the implant has a helical configuration. To support this assertion, the Office Action cites col. 7, lines 5+ which, according to the Office Action, provides for a stent that may be biodegradable and coated and that such disclosure is interpreted as disclosing an outer coating reinforced with a core of material.

The present claims have been amended to clarify that the biodegradable material is internally reinforced with "biodegradable reinforcing elements." Applicants believe that such a clarifying amendment is unnecessary because the claims always recited that the biodegradable material is internally reinforced and based on a reading of the specification, this means that the biodegradable material is internally reinforced with biodegradable reinforcing elements. (See *e.g.* page 5, lines 15-19; page 8 line 21 to page 9, line 9; page 9, line 22 to page 10, line 5). Nonetheless, Applicants have explicitly included this element in the claims. Examples of "biodegradable reinforcing elements" can be found on page 8, line 22 to page 9, line 9 of the specification. Accordingly,

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Applicant submit that Pinchtuk does not anticipate the present claims as Pinchtuk does not teach or suggest biodegradable reinforcing elements and specifically Pinchtuk does not teach or suggest a biodegradable material that is internally reinforced with biodegradable reinforcing elements in a longitudinal direction of the material. Claims 1, 3, 4, and 5 are therefore not anticipated by Pinchtuk and Applicants respectfully request withdrawal of this rejection.

Claim 2 Is Not Anticipated by Pinchtuk in View of Silver

According to the Office Action, Pinchtuk teaches a stent made from biodegradable materials and Silver teaches fibers made from biodegradable fibrils used for the manufacture of prosthetic devices. The Office Action concludes that to use the degradable material of Silver to make the stent of Pinchtuk would have been obvious.

As mentioned earlier, the present claims specifically recite a biodegradable material reinforced with "biodegradable reinforcing elements" in the "longitudinal direction of the material". Claim 2 specifies that these biodegradable reinforcing elements may be microfibrils or fibrils. Silver, on the other hand, describes a collagen sponge prepared from powder or flakes. If it is the Examiner's position that these powders or flakes equate to "biodegradable reinforcing elements" as that term is used in the present application and as recited in the present claims, Applicants respectfully request clarification. It is Applicant's position that there is no mention at all in Silver of biodegradable reinforcing elements, as this term is described in the specification and recited in the present claims. Moreover, there is no mention at all in Silver of biodegradable reinforcing elements that reinforce the biodegradable material in the longitudinal direction of the material, as recited by the present claims. Therefore, Silver does not make up for the deficiencies of Pinchtuk and therefore claim 2 is not rendered obvious by Pinchtuk in view of Silver. Accordingly, Applicants request withdrawal of this rejection.

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CONCLUSION

It is respectfully submitted that the present application is now in condition for allowance, which action is respectfully requested. The Examiner is invited to contact Applicants' representative to discuss any issue that would expedite allowance of the subject application.

It is not believed that any extensions of time or other fees are required in connection with the filing of this response. However, if any fees for extension(s) of time or additional fees are required in connection with the filing of this response, such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is authorized to charge any such required fees or to credit any overpayment to Kenyon & Kenyon's Deposit Account No. 11-0600.

Respectfully submitted,
KENYON & KENYON

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Dated: _____

By: Zeba Ali
(Reg. No. 51,392)

1500 K Street, N.W.
Washington, D.C. 20005
Tel: (202) 220-4200
Fax: (202) 220-4201

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